

App. No. 10/643,459
Amendment Dated December 20, 2005
Reply to Office Action of September 21, 2005

REMARKS/ARGUMENTS

Claims 1- 30 are pending in this application. Claims 1, 6-14, 17-20, and 22-28 are rejected under 35 U.S.C. § 102(e). Claims 2 – 5 and 15 – 16 are rejected under 35 U.S.C. § 103(a). Claims 1, 9, 12, 13, 22, 24, 25 and 28 are amended. Claims 10 and 11 are cancelled. New claims 31 – 40 are added. No new matter has been added.

Drawings

Applicant notes that the Office Action Summary has a box checked for receipt of the drawings filed on August 19, 2003, without checking either box regarding acceptance or objection to the drawings. Applicant kindly requests clarification as to the status of acceptance of the drawings.

Examiner's Interview

Applicant wishes to thank the Examiner and acknowledge the Examiner's Interview that was conducted on December 19, 2005. The Herath reference (US Patent Publication No. 2004/0091042) was discussed in detail and agreement was tentatively reached as to features described in Applicant's claims 10.

As requested by the Examiner, the Applicant is hereby submitting an amendment to claim 1 to include the features of claim 10, thereby placing claim 1 in proper form for allowance. Claims 10 and 11 have been cancelled since their features are now incorporated into amended claim 1. Claims 9 and 12 have been amended to place them in conformity with amended claim 1. Since claim 1 is proposed to be allowable, it is believed that claims 2 – 9 and 12 are also in proper form for allowance and notice to that effect is requested.

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Independent claims 13, 22, and 24 have been similarly amended to recite limitations as in claim 10, as also discussed with the Examiner, and are likewise believed to be in form for allowance. Claims 14 – 21 depend upon and further limit claim 13, and are believed to be allowable for at least that reason. Claim 23 depends upon and further limits claim 22 and is believed to be allowable for at least that reason. Claims 25 and 28 have been amended to clarify features of the invention. Claims 25 – 30 depend upon and further limit claim 24, and is believed to be allowable for at least that reason. Claims 13 – 30 are believed to be in proper form for allowance and notice to that effect is requested.

New claims 31 – 40 have been added without addition of any new subject matter. Claim 31 is substantially similar in scope to Applicant's claim 24, and thus is not believed to present a burden on the Examiner that will require any further search for proper consideration. An allowance of claim 31 – 40 is requested.

Claims Rejected Under 35 U.S.C. § 102(e)

Claims 1, 6-14, 17-20, and 22-28 are rejected under 35 U.S.C. § 102(e) as being anticipated by Herath (US Patent Publication No. 2004/0091042). According to the Office Action independent claims 1, 13, 22 and 24 were anticipated by the Herath reference. As discussed during the Interview with Examiner no December 19, 2005, the Herath reference does not teach the limitations of Applicant's claims 9 – 13, 17 – 20 and 23 – 30.

By way of particular Example, the Herath reference does not teach, suggest or otherwise described a flow controller that handles data streams such as in a network based load balancing application as is understood to those in the art, nor does the Herath reference suggest that the

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evaluation of system resources such as processor usage, memory usage, and network traffic loading as a criteria for selection and/or offloading of compression processing to one or more hardware compressors. Additionally, the Herath reference does not teach, suggest or otherwise described the relevance of historical information associated with a data flow, and the communication of the historical information between the flow controller (or logic block) and any selected compressor.

Applicant's Amended Claim 1 recites at least the following limitations that are not taught, suggested or otherwise described by the Herath reference: "a flow controller that is arranged to: monitor system resources associated with the flow controller, algorithmically compress selected data streams with the flow controller when the resources associated with the flow controller are below a minimum criteria, and forward data streams to the logic block for compression when the resources associated with the flow controller exceed the minimum criteria such that compression is offloaded to the logic block; wherein the minimum criteria comprises at least one of: a processor usage criteria, a memory usage criteria, and a network traffic loading criteria." For at least these reasons, Applicant requests allowance of amended claim 1.

Claims 10 and 11 have been cancelled since their features are now incorporated into amended claim 1. Claims 9 and 12 have been amended to place them in conformity with amended claim 1. Since claim 1 is proposed to be allowable, it is believed that claims 2 – 9 and 12 are also in proper form for allowance and notice to that effect is requested.

Applicant's amended claim 13 recites at least the following limitation that are not taught, suggested or otherwise described by the Herath reference: "receiving data from a flow controller

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with a logic block when resources associated with the flow controller exceed a minimum criteria, wherein the minimum criteria comprises at least one of: a processor usage associated with the flow controller, a memory usage associated with the flow controller, and a network traffic loading associated with the flow controller". Claims 14 – 21 depend upon and further limit claim 13, and are believed to be allowable for at least that reason. Allowance of claim 13 – 21 is kindly requested.

Applicant's amended claim 22 recites at least the following limitations that are not taught, suggested or otherwise described by the Herath reference: "a flow controller that is arranged to monitor system resources associated with the flow controller, wherein the flow controller is also arranged to offload compression based upon the monitored system resource, wherein the monitored system resources comprise at least one of: a processor usage in the flow controller, a memory usage in the flow controller, and a network traffic loading effect in the flow controller", and "a first means for receiving that is arranged to receive data from the flow controller when the monitored process loading exceeds a processing criteria associated with the flow controller". Claim 23 depend upon and further limits claim 22, and is believed to be allowable for at least that reason. Allowance of claims 22 – 23 is respectfully requested.

Applicant's amended claim 24 recites at least the following limitations that are not taught, suggested or otherwise described by the Herath reference: "receiving the data with a flow controller", "evaluating system resources associated with the flow controller", "selecting a software based compression method when sufficient system resources are available in the flow controller", "selecting a hardware based compression method when insufficient system resources

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are available in the flow controller", and "compressing the data according to the selected compression method based on the evaluated system resources". Claims 25 and 28 have been amended to clarify features of the invention. Claims 25 – 30 depend upon and further limit claim 24, and is believed to be allowable for at least that reason. Allowance of claims 24 – 30 is requested.

For at least the reasons stated above, it is believed that all pending claims are in proper form for allowance and notice to that effect is requested.

Claims Rejected Under 35 U.S.C. § 103(a)

Claims 2 – 5, 15 – 16 are rejected under 35 U.S.C. § 103(a) as being anticipated by unpatentable over Herath (US Patent Publication No. 2004/0091042). Claims 21, 29 and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Herath in view of Garakani et al. (US Patent Publication No. 2004/0210668).

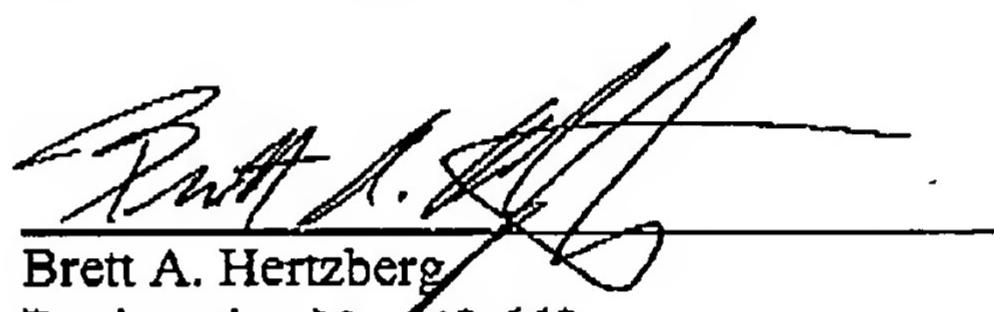
Each of the independent claims are proposed to be allowable over the Herath reference as described above and discussed during the Examiner's interview of December 19, 2005. None of the cited references cure the failings of the Herath reference, nor teach, suggest, or otherwise described all of Applicant's claimed features of amended independent claims 1, 13, 22 and 24. Since the amended independent claims are all proposed to be in form for allowance, the rejection of the dependent claims 2 – 5, 15 – 16, 21, 29, and 30 is rendered moot.

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In view of the foregoing amendments and remarks, all pending claims are believed to be allowable and the application is in condition for allowance. Therefore, a Notice of Allowance is respectfully requested. Should the Examiner have any further issues regarding this application, the Examiner is requested to contact the undersigned attorney for the applicant at the telephone number provided below.

Respectfully submitted,

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